



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 02391-99
25 January 2001

an

MR [REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 17 June 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Your otherwise commendable performance did not persuade the Board that the contested material warranted removal. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

IN REPLY REFER TO

1611

Ser 834C/971

17 Jun 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: [REDACTED], USN, [REDACTED]

Ref: (a) BCNR memo 5420 Pers-00ZCB of 8 Jun 99
(b) Superintendent, NPS, ltr 5510 Ser 006/026 of 8 Feb 96
(c) MILPERSMAN 1611-010
(d) Manual for Courts-Martial Appendix 12

Encl: (1) BCNR file 02391-99 w/Service Record

1. Reference (a) requested comments and recommendations concerning removal of reference (b), [REDACTED] civil conviction for unlawful fighting or challenging another to fight in a public place. Enclosure (1) is returned as a matter under the purview of BCNR.

2. Reference (b) was forwarded for inclusion in his record by [REDACTED] reporting senior, who felt it should be included in his record due to the seriousness of the event. Concur with this determination. [REDACTED] assaulted two civilians and resisted arrest after being denied re-entry to a bar from which he had been removed.

3. Reference (c) requires reporting of any offense which, if punished under the UCMJ, carries a maximum punishment of confinement of one year or more or a punitive discharge or dismissal. Clearly, [REDACTED] could have been subject to charges of violations of the UCMJ, Article 133, conduct unbecoming an officer, and Article 128, assault, consummated by battery. Per reference (d), both articles carry punitive measures that meet the reporting standard of reference (c). Accordingly, the filing of this incident [REDACTED]'s record was done in accordance with reference (c) and was consistent with the handling of similar cases. Do not recommend removal of the matter from [REDACTED]'s record.

[REDACTED]
Director, Personnel Performance &
Security Division (PERS-83)
Acting

(3) ADVISORY OPINION